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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

KENNETH LEE TAYLOR,

Defendant and Appellant.

A146209

(Alameda County  
Super. Ct. No. C123774)

Kenneth Lee Taylor appeals from a post judgment order denying his petition to recall his sentence under Proposition 36 (Pen. Code, § 1170.126). His counsel raises no issues and asks this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant has filed a supplemental brief raising issues concerning the sufficiency of the evidence to support his underlying conviction of carjacking and assault, ineffectiveness of his trial counsel, and prosecutorial misconduct. On March 2, 2006, this court affirmed the trial court's resentencing of defendant on his conviction of carjacking, assault, firearm possession, and the allegations that he personally used a firearm during the carjacking and assault and suffered two prior "strike" convictions. (*People v. Taylor* (Mar. 2, 2006, A105940) [nonpub. opn.].) Defendant is not entitled to another appeal of the conviction.

On May 20, 2015, defendant filed a petition for a resentencing hearing under Proposition 36 to reduce his three strikes sentence of 42 years to life. Proposition 36, known as the Three Strikes Reform Act of 2012 (the Act) was approved by the voters on November 6, 2012, and became effective the next day. (Penal Code, § 1170.126,

subd. (b); *People v. Brown* (2014) 230 Cal.App.4th 1502, 1507.) Penal Code section 1170.126 provides a procedure for resentencing defendants who are serving an indeterminate term of imprisonment under the Three Strikes Law to petition to recall his or her sentence if his or her third strike was not a serious or violent felony and hence would not qualify under the Act for a third-strike term. In addition, the Act requires that the petition be filed “within two years after the effective date of the act that added this section or at a later date upon a showing of good cause . . . .” (Pen. Code, § 1170.126, subd. (b).)

The trial court denied the petition as untimely because it was not filed within two years of the effective date of the statute.

The trial court properly denied the petition. This court has reviewed the entire record and there are no meritorious issues to be argued.

The order is affirmed.

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Rivera, J.

We concur:

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Reardon, Acting P.J.

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Streeter, J.